sion nor the right to possession, at the time of the conversion. *Halliday* v. *Holgate*, L. R. 3 Ex. 299. However, it is now generally held that the pledgor may sue in trover when the pledgee sells wrongfully after maturity, on the theory that the tortious act vests the right to possession in the pledgor. *Neiler* v. *Kelley*, 69 Pa. St. 403; *Feige* v. *Burt*, 118 Mich. 243, 77 N. W. 928; *King* v. *Boerne State Bank*, 159 S. W. 433 (Tex. Civ. App.). See 13 HARV. L. REV. 55; 18 *ibid.* 610. And since the sale was made by the president in the scope of his authority, and for the benefit of the bank, the latter should be liable in trover also. *Johnston Fife Hat Co.* v. *Nat. Bank of Guthrie*, 4 Okla. 17, 44 Pac. 192.

POST-OFFICE — USE OF MAILS TO DEFRAUD — WHAT CONSTITUTES "SCHEME OR ARTIFICE." — The defendant, as president of a corporation engaged in a legitimate business, mailed a fraudulent statement of its financial condition to a bank to induce a loan to the corporation. The use of the mail for any scheme or artifice to defraud or obtain money by false pretenses is unlawful. CRIM. CODE, § 215; 35 U. S. STAT. AT L. 1130. The defense was that this single transaction in connection with a legitimate business was not a "scheme or artifice" within the meaning of the statute. *Held*, that the defendant was guilty of a violation of the statute. *Bettman* v. *United States*, 224 Fed. 819 (C. C. A., 6th Circ.).

Until the latest amendment, this statute only provided against the use of the mails for a scheme or artifice to defraud. REV. STAT., § 5480; as amended, 25 U. S. STAT. AT L. 873. The underlying purpose of the statute was stated to be the broad one of reserving the mails to legitimate business. See *Horman* v. *United States*, 116 Fed. 350. Further, the phrase "scheme or artifice" received a very broad construction. *Durland* v. *United States*, 161 U. S. 306, 313; *United States* v. *Stever*, 222 U. S. 167, 173; *O'Hara* v. *United States*, 129 Fed. 551, 555. The amendment making criminal a scheme or artifice to obtain money by false pretenses considerably broadened the scope of the act. Misrepresentations of financial condition mailed to one that he might induce others to make loans relying upon those representations constitutes use of the mails for a scheme within the statute. *United States* v. *Young*, 232 U. S. 155. Also such single transactions as a blackmailing letter, or an attempt to obtain goods by mailing a worthless check in payment, are "schemes" within the statute. *Weeber* v. *United States*, 62 Fed. 740; *Harrison* v. *United States*, 200 Fed. 662, 665; *Charles* v. *United States*, 213 Fed. 707, 712. Even under the unamended statute a transaction apparently indistinguishable from that in the principal case was held to fall within the statute. *Scheinberg* v. *United States*, 213 Fed. 757. In view of the fact that the broad interpretation always given to this act was nevertheless followed by amendments extending its scope, the principal case seems necessarily correct.

QUASI-CONTRACTS — RESCISSION OF CONTRACT FOR SALE OF LAND BY PURCHASER — RECOVERY BY VENDOR FOR USE AND OCCUPATION. — A purchaser in possession under a contract for the sale of land, on the ground of a breach by the vendor, rescinded the contract and recovered back the part payment he had already made, but no interest thereon. The vendor sues for the value of the use and occupation of the premises. *Held*, that he cannot recover. *Castle* v. *Armstead*, 168 App. Div. (N. Y.) 466.

It is well settled that an action for use and occupation lies only where there is the "relation of landlord and tenant" between the parties. 2 TAYLOR, LANDLORD AND TENANT, 9 ed., § 636. Some courts construe this to exclude cases where the relation is that of vendor and purchaser. *Smith* v. *Stewart*, 6 Johns. (N. Y.) 46; *Ankeny* v. *Clark*, 148 U. S. 345, 359. But the better view is merely that the defendant must have been in possession in acknowledged subordination to the plaintiff's title. *Clark* v. *Green*, 35 Ga. 92. This is a necessary premise for those cases, representing the weight of authority, which

allow a recovery by a vendor when the failure of the contract is due to some fault of the purchaser. *Woodbury* v. *Woodbury*, 47 N. H. 11. See 2 WARVELLE, VENDORS, 2 ed., § 876. However, where the vendor is at fault, he is generally not allowed to recover. *Hough & Wood* v. *Birge*, 11 Vt. 190. It would seem more equitable to make recovery depend on the usual principles of unjust enrichment, rather than on the fault of either party, and some cases adopt this view. *Allen* v. *Talbot*, 170 Mich. 664, 669, 137 N. W. 97, 98; *Jones* v. *Grove*, 76 Wash. 19, 22, 135 Pac. 488, 489. Thus the result reached in the principal case is justified by the fact that the defendant received no interest on the purchase price, which may therefore be balanced against the plaintiff's claim for the value of the use and occupation. *Ohio Valley Trust Co.* v. *Allison*, 243 Pa. St. 201, 89 Atl. 1132. See *Grainger* v. *Jenkins*, 156 Ky. 257, 259, 160 S. W. 926, 928.

RESTRAINT OF TRADE — COMPULSORY SALES — IMMATERIALITY OF MOTIVE IN REFUSING TO SELL. — The plaintiff maintained a system of retail stores. The defendant, manufacturer of "Cream of Wheat," sold to plaintiff at wholesale rates on condition that plaintiff would resell only at prices requested by defendant. Upon his refusal to maintain the retail price, defendant declined further to deal with plaintiff and requested that the jobbers to whom he sold do likewise. The plaintiff brought suit in the Federal District Court praying that the price maintenance scheme be declared a violation of the anti-trust laws, and that defendant be restrained from "cutting off the said plaintiff's supply" of "Cream of Wheat." On appeal to the Circuit Court of Appeals, the refusal of the lower court to grant a preliminary injunction was affirmed. *The Great Atlantic & Pacific Tea Co.* v. *Cream of Wheat Co.* (not yet reported).

The court brushes aside the plaintiff's contention that the defendant's system of price maintenance was in restraint of trade with the remark that the business of the defendant was not a monopoly, and bases its decision on the ground that the common-law right of a trader to deal with whom he pleased, for what reason he pleased, has not been altered either by the Sherman Law or the Clayton Act. For a discussion of the principles involved in attempted compulsory sales and price maintenance, see 29 HARV. L. REV. 77.

RULE AGAINST PERPETUITIES — INTERESTS SUBJECT TO RULE — LIMITATION FOR LIFE EXPECTANT UPON ESTATE VOID FOR REMOTENESS. — An antenuptial settlement provided that property should be held in trust for the settlor for life, then for his wife for life, then for the children of the marriage who should reach the age of twenty-five, then for the settlor's sisters for life, with further trusts declared. *Held*, that the trust in favor of the sisters is void for remoteness. *Re Hewett's Settlement*, 113 L. T. R. 315 (Ch. Div.).

The rule, that the remoteness of one estate avoids all subsequent estates that are expectant on it, is clear law in England. *Beard* v. *Westcott*, 5 B. & Ald. 801; *Re Thatcher's Trusts*, 26 Beav. 365. The court in the principal case felt bound by these authorities, though considerable criticism has been directed at this rule. See GRAY, PERPETUITIES, 2 ed., §§ 251 *et seq.* See *Crozier* v. *Crozier*, 3 Dr. & War. (Ire.) 353, 369. Since the gift over, though expectant on an estate which is void for remoteness, runs to a person in being, it must necessarily vest within the prescribed period, and is therefore no violation of the rule against remote future interests. See GRAY, PERPETUITIES, 2 ed., § 252; 18 HARV. L. REV. 232. This reasoning is accepted in cases involving powers of appointment. *Crozier* v. *Crozier*, 3 Dr. & War. (Ire.) 353. The rule of the principal case is supported only on the unjustified assumption that in the absence of an express provision the limitations shall be construed as alternative, and the result thus reached more nearly conforms to the intent of the testator or settlor. See *Monypenny* v. *Dering*, 2 DeG. M. & G. 145, 182. It is to be